

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
at Charleston**

THE WEST VIRGINIA COALITION :
AGAINST DOMESTIC VIOLENCE, INC., :

Plaintiff, :

v. :

Case No. 2:19-cv-00434
(Judge John T. Copenhaver, Jr.)

PATRICK J. MORRISEY, in his official :
capacity as Attorney General for the :
State of West Virginia :

Defendant. :

MOTION TO DISMISS

Defendant, Patrick J. Morrissey, in his official capacity as Attorney General for the State of West Virginia, moves to dismiss the June 6, 2019 Complaint filed by The West Virginia Coalition Against Domestic Violence, Inc. (“the Coalition”). Alternatively, Defendant moves for a more definite statement. In support thereof, Defendant avers as follows:

1. On June 6, 2019, the Coalition instituted this action seeking declaratory and injunctive relief by filing a Complaint.
2. On June 28, 2019, the parties filed a stipulation pursuant to Local Rule of Civil Procedure 12.1 extending the time to file a responsive pleading to and including August 5, 2019.
3. Defendant is responsible for enforcing West Virginia Code § 61-7-14(d).
4. Defendant has never received a complaint of a Section 61-7-14(d) violation.

5. Defendant has never exercised his enforcement authority under West Virginia Code § 61-7-14(f).
6. Defendant does not intend to enforce the statute against the Coalition's members without receiving a citizen complaint.
7. The Coalition's members face no actual threat of enforcement action.
8. Any alleged self-censorship by the Coalition's members is objectively unreasonable.
9. The Coalition's free speech claim is not germane to its organizational purpose.
10. The Coalition therefore lacks standing to maintain this action.
11. The issues in this case are not fit for judicial decision.
12. The Coalition and its members would not face a hardship if this Court delayed ruling on the merits of the claims.
13. Thus, this case is not ripe for adjudication.
14. For three independent reasons, this Court lacks subject-matter jurisdiction over this case.
15. The Coalition challenges the constitutionality of West Virginia Code § 61-7-14(d) on multiple grounds.
16. The Coalition's Complaint includes multiple causes of action in a single count in violation of Federal Rule of Civil Procedure 10(b).

For these reasons, and those set forth in the accompanying memorandum of law, Defendant moves to dismiss the Complaint with prejudice pursuant to Federal Rule

of Civil Procedure 12(b)(1). Alternatively, Defendant moves for a more definite statement pursuant to Federal Rule of Civil Procedure 12(e).

DATED: August 5, 2019

Respectfully submitted,

COUNSEL FOR PATRICK J. MORRISEY, in
his official capacity as Attorney General for
the State of West Virginia

PATRICK MORRISEY
ATTORNEY GENERAL

/s/ Lindsay S. See

Lindsay S. See (WV Bar #13360)

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